STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

April 8, 2010

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No.:09MD011

Maui

Issuance of Revocable Permit and Immediate Construction Right-of-Entry to Stable Road Beach Restoration Foundation, Inc., Specklesville, Wailuku, Maui, Seaward of Tax Map Key(s): (2) 3-8-002:071, 074, 077, 078 and 094.

APPLICANT:

Stable Road Beach Restoration Foundation, Inc., a Domestic Nonprofit Corporation.

LEGAL REFERENCE:

Sections 171-13 and -55, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Specklesville, Wailuku, Maui, seaward of Tax Map Key(s): (2) 3-8-002:071, 074, 077, 078 and 094, as shown on the attached map labeled Exhibit A.

AREA:

38,940 sq. ft., more or less.

ZONING:

State Land Use District: Conservation

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: YES ___ NO _X_

CURRENT USE STATUS:

Vacant and unencumbered.

CHARACTER OF USE:

Category II Small-Scale Beach Nourishment purposes.

COMMENCEMENT DATE:

April 12, 2010.

MONTHLY RENTAL:

Gratis.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

The proposed action is addressed in the Department of Land and Natural Resources (DLNR) Office of Conservation and Coastal Lands (OCCL) State-wide Small Scale Beach Nourishment (SSBN) permitting system that obtained a programmatic environmental assessment in conformance with HRS Chapter 343. The SSBN received a Finding of No Significant Impact (FONSI) on May 18, 2000, which was published in the OEQC's Environmental Notice on June 8, 2000.

DCCA VERIFICATION:

Place of business registration confirmed:	YES _X_	NO __
Registered business name confirmed:	YES _X_	NO __
Applicant in good standing confirmed:	YES _X_	NO __

REMARKS:

This is a planned regional beach restoration project. The proposed project is designed to mitigate the effects of chronic and seasonal coastal erosion fronting the subject property, restore the beach and near shore area with sand, and to improve lateral access for the general public. As such the applicant is requesting permission to place approved beach quality sand on the public beach for the benefit of all beachgoers.

The objective of this project is to restore and stabilize the beach along Stable Road in the project area as defined in the SSBN application. This objective will be met by placing up to

10,000 cubic yards of compatible beach sand along the shoreline and installing a series of four temporary geotube groins to minimize sand loss during seasonal changes in sediment transport caused by wind, waves, and currents. If the beach and environmental performance objectives are met, a more permanent engineered solution may be implemented at a later date. The Geotube groins are an important part of the pilot project design and the applicant's environmental monitoring of the project is intended to provide quantitative data to supplement any future applications for shoreline protection in the project area. The SSBN terms and conditions allows for placement of small-scale, temporary sand retention structures such as groins. The geotube material can provide a stable shoreline structure that has the benefit of being temporary in that it can be cut open and removed in a relatively short period of time. The SSBN authorization for this project is conditioned such that the proposed geotube groins are temporary and the authorization for them will expire 4 years from the date of completion after which the geotubes will need to be removed or approval sought for a permanent retention through the proper individual permit process.

The DLNR- OCCL has reviewed the submitted documentation in support of the application for Small-Scale beach nourishment and it has been found to be complete. The proposed activities were evaluated for potential impact to the local near shore ecosystem as well as socio-economic issues and outside comments were solicited from the following agencies:

1. Army Corps of Engineers.
2. State of Hawaii Department of Health, Clean Water Branch.
3. DLNR- Department of Aquatic Resources, Historic Preservation, Land Division
4. Beach Nourishment Panel of Technical Experts (special interdisciplinary advisory panel)
5. NOAA National Marine Fisheries Service
6. NOAA Pacific Islands Regional Office
7. U.S. Fish and Wildlife Service
8. University of Hawaii, Sea Grant Program
9. Maui County Planning Department
10. State of Hawaii, Office of Hawaiian Affairs

A public information meeting was held on July 30, 2008 in Spreckelsville, Maui in response to public concern over the potential environmental impacts to the near shore. This public information meeting was publicized in the local media and well attended with nearly 50 people present. The applicants and their consultants along with DLNR and Maui County Planning staff were present to provide a project overview and address public questions. Based on this meeting several significant modifications were made to the project scope and monitoring based on comments received from the public.

The applicant(s) held several separate private meetings voluntarily with interested members of the community to discuss the detailed marine monitoring plans and to acknowledge local

fishermen concerns over habitat loss and water quality issues.

Panel of Technical Experts

A special Panel of Technical Experts (PTE) was formed to review Category II applications in order to ensure consistency with the provisions of the SPGP and to maintain a high level of environmental safeguards. The panel has reviewed the application and provided comments and recommendations to OCCL staff. Several significant modifications were made to the project scope and monitoring based on comments received from the panel including reducing the total number of groins from 7 down to 4 and revision of the settling basin designs. This independent panel currently consists of:

Dr. Charles Fletcher, Coastal Geologist. University of Hawaii, School of Ocean and Earth Science and Technology Department of Geology and Geophysics.

Tom Smith, Coastal Engineer. U.S. Army Corps of Engineers, Pacific Ocean Division.

Alan Everson, Marine Biologist. NOAA National Marine Fisheries, **Pacific** Islands.

Heidi Kai Guth, Lead Advocate, Office of Hawaiian Affairs.

CONSTRUCTION SCHEDULE

Beach nourishment is planned for a 3-week period, depending on weather and surf. All construction equipment and materials arrive at Stable Road within the first 5 days of the 21-day construction interval and depart on the 22nd day.

Water quality monitoring includes a baseline interval before the equipment arrives at the site, daily during the project and then continuing 5 days after the end of the nourishment work. Dredging and sand settling work will be performed continuously during a break in the weather and surf. The applicant will obtain necessary noise permits and will coordinate the construction schedule with neighbors. It is anticipated the project will initiate construction activities in April, 2010.

Applicant has not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

No other applicants have requested use of the subject area.

Month-to-month tenancy is more appropriate than long-term disposition in this case due to the exploratory nature of the proposed project.

Staff is recommending the rent be gratis because Stable Road Beach Restoration

Foundation, Inc. does not intend to profit monetarily from the use of State lands and/waters.

Authorization for the geotube groins is temporary and will expire four (4) years after completion of the initial construction of the project. As a method of ensuring timely and adequate removal of the temporary geotube groins an agreement between the DLNR and the Applicant (SRBRF) has been effected that identifies an escrow account has been setup for 150% of the estimated cost of removal of the groins allowing the DLNR to utilize the account as necessary.

If the installation of the geotube groins does not result in an improvement to beach conditions, the groins shall be removed at applicant's sole cost.

APPLICANT REQUIREMENTS

The applicant shall comply with the following terms and conditions:

1. All terms and conditions as stated in the State Department of Health's Section 401 Water Quality Certification (WQC) 0000751/DA File No. POH-2008-00064 dated March 10, 2010,

2. All terms and conditions as stated in the County of Maui, Department of Planning's, Special Management Area (SMA) Exemption and Shoreline Setback Approval (SMX 2008/0453) SM5 2009/0033) (SSA 2008/0042) dated February 9, 2009,

3. All terms and conditions as stated in the DLNR– OCCL Notice of Approval of Category II Small-Scale Beach Nourishment, MA-08-01, dated May 8, 2009.

RECOMMENDATION: That the Board:

1. Authorize the issuance of a revocable permit to Stable Road Beach Restoration Foundation, Inc. covering the subject area for Category II Small-Scale Beach Nourishment purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:

   a. The standard terms and conditions of the most current revocable permit form, as may be amended from time to time;

   b. Review and approval by the Department of the Attorney General; and

   c. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

2. Authorize the issuance of a right-of-entry permit to Stable Road Beach Restoration

Foundation, Inc. for construction purposes, under the term and conditions cited above, which are by this reference incorporated herein and further subject to the following:

A. The standard terms and conditions of the most current right-of-entry permit form, as may be amended from time to time; and

B. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,

Charlene E. Unoki

for Daniel Ornellas
District Land Agent

APPROVED FOR SUBMITTAL:

Laura H. Thielen, Chairperson

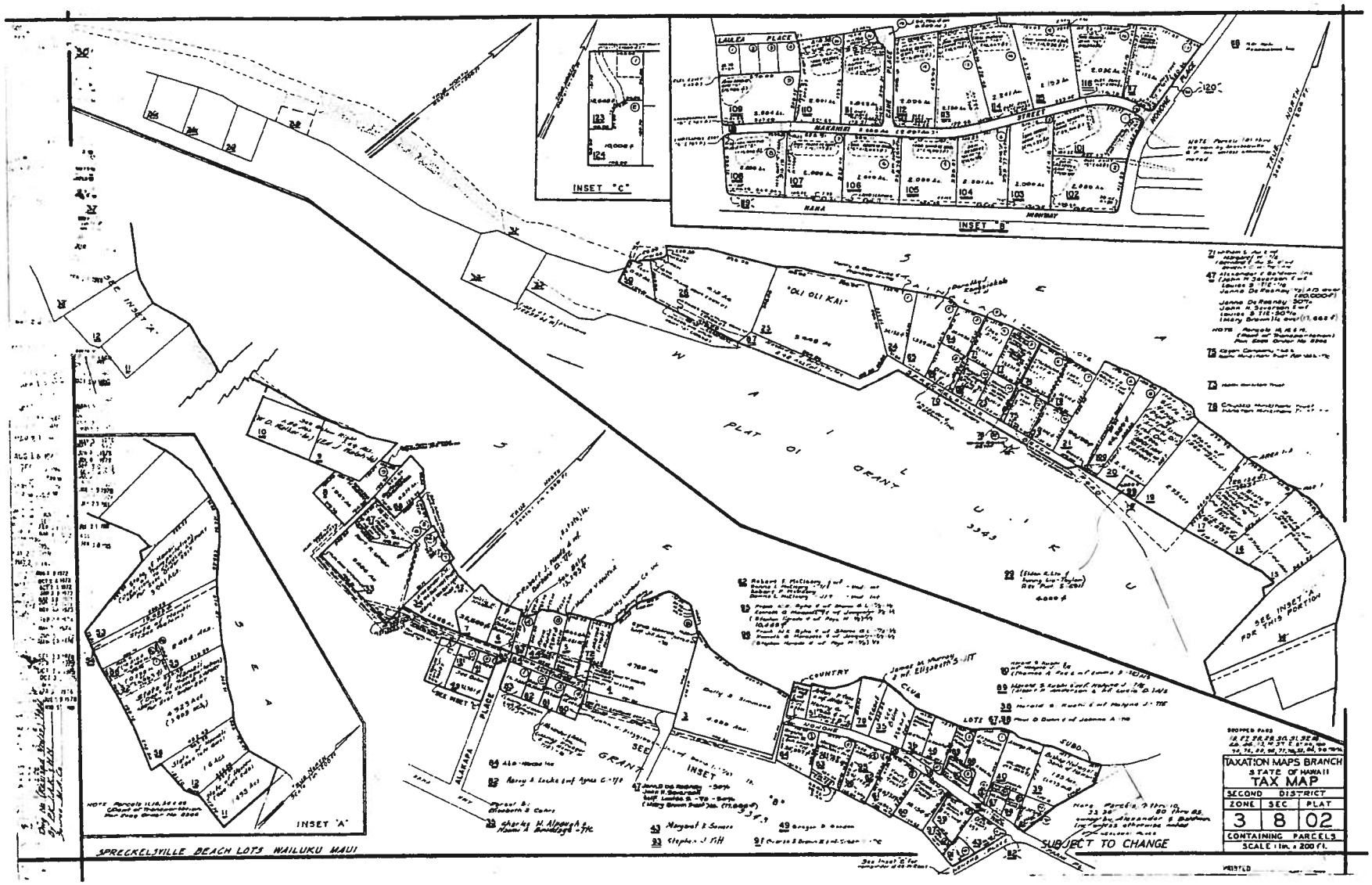

INSET "C"
INSET "B"
INSET "A"
"OLI OLI KAI"
PLAT OF GRANT
SEE INSET "A" FOR THIS PORTION
SEE INSET "B"
SEE INSET "C"
SPRECKELSVILLE BEACH LOTS WAILUKU MAUI
SUBJECT TO CHANGE
TAXATION MAPS BRANCH
STATE OF HAWAII
TAX MAP
SECOND DISTRICT
ZONE 3 SEC 8 PLAT 02
CONTAINING PARCELS
SCALE 1 in. = 200 ft.

EXHIBIT A

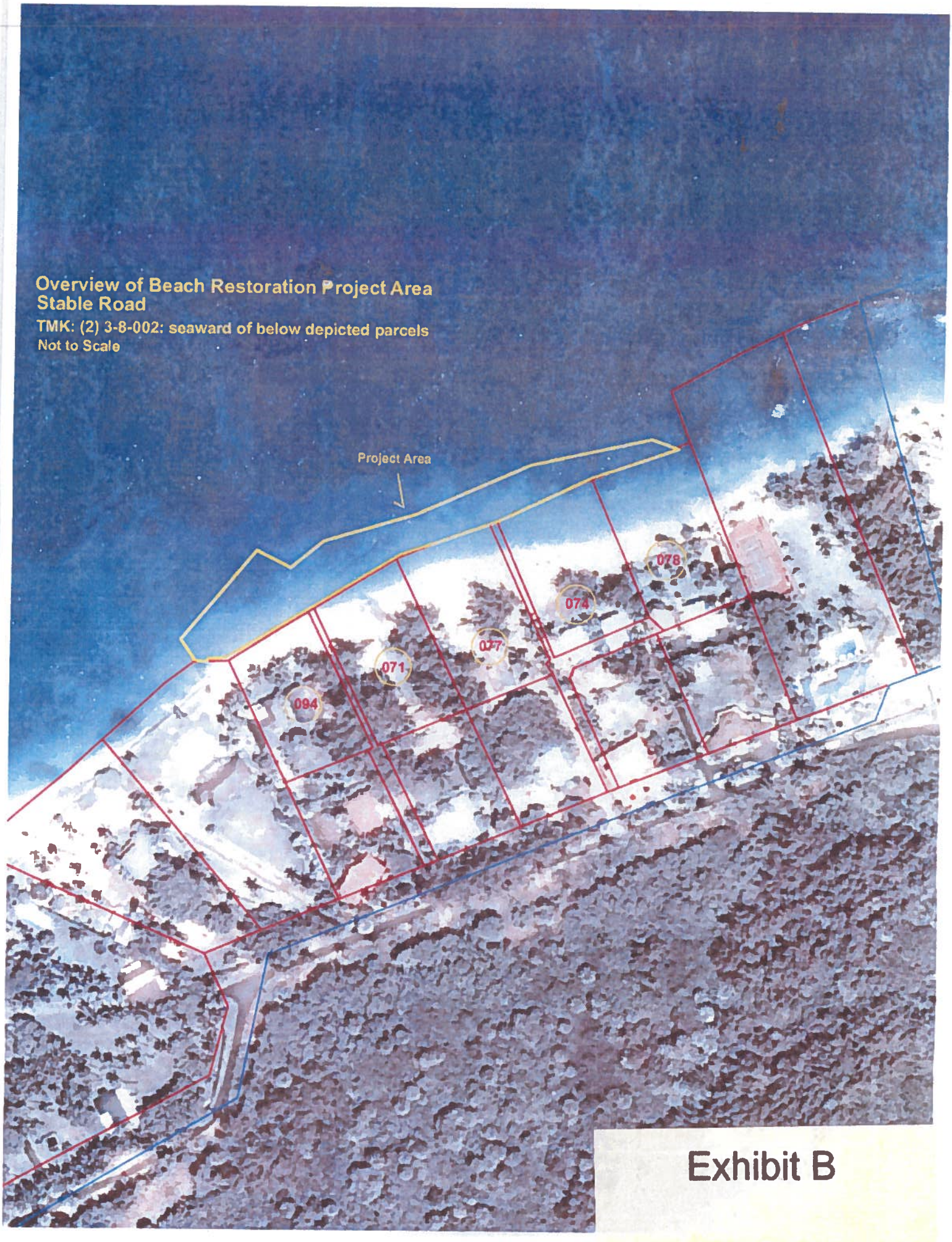

Overview of Beach Restoration Project Area
Stable Road
TMK: (2) 3-8-002: seaward of below depicted parcels
Not to Scale
Project Area
078
074
077
071
094

Exhibit B

STABLE ROAD BEACH NOURISHMENT

CLIENT: STABLE ROAD BEACH RESTORATION FOUNDATION, INC

STABLE ROAD BEACH NOURISHMENT

REVOCABLE PERMIT AREA

OCEAN

STABLE ROAD

LOT A

LOT 2

LOT 3

LOT 4

LOT 5

LOT 6

LOT 7

LOT 8

LOT 9

LOT 11

LOT 12

LOT 13

LOT 14

DEEDED PROPERTY LINE

GEOTUBE SAND RETENTION GROIN

SHORELINE AS DELINEATED ON 9/25/07 DLNR OCCL w/STATE SURVEYOR AND RECONFIRMED ON 4/29/08

REVOCABLE PERMIT AREA, 38,940 SF MORE OR LESS

SCALE

0 100 200 300 FT

N E S W

EXHIBIT "C"

LINDA LINGLE
GOVERNOR OF HAWAII

LAURA H. THIELEN
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

RUSSELL Y. TSUJI
FIRST DEPUTY

KEN C. KAWAHARA
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
OFFICE OF CONSERVATION AND COASTAL LANDS
POST OFFICE BOX 621
HONOLULU, HAWAII 96809

REF:OCCL:DE

File: SSBN MA-08-01

May 8, 2009

Mr. Jeffrey Lundahl
Stables Road Beach Restoration Foundation, Inc. (SRBRF)
590A Stable Road
Paia, Maui, Hawaii 96779

Dear Mr. Lundahl:

Subject: NOTICE OF APPROVAL OF CATEGORY II SMALL-SCALE BEACH NOURISHMENT (SSBN) DLNR Application MA-08-01, 590 Stable Road. Spreckelsville Beach TMK: (2) 3-8-002:65,94,71,77,74&78 (seaward). DA File.POH-2008-064

On October 27, 2000, the Board of Land and Natural Resources (BLNR) approved master CDUA ST-3000 for the State Programmatic General Permit (SPGP) for Small-Scale Beach Nourishment (SSBN). The board action includes a provision delegating to the Chairperson of the Department of Land and Natural Resources (DLNR) the authority to issue Category II permits for small-scale beach nourishment projects in Hawaii, subject to the Board's consent to delegate its authority. At the June 27, 2008 meeting, the BLNR unanimously approved the staff submittal request to delegate authority for the chairperson to review and potentially authorize the proposed beach nourishment permit MA-08-01 pursuant to CDUA (ST-3000).

The DLNR, Office of Conservation and Coastal Lands (OCCL) has reviewed the submitted documentation in support of the application for Small-Scale beach nourishment and it has been found to be complete. The proposed activities were evaluated for potential impact to the local nearshore ecosystem as well as socio-economic issues and outside comments were solicited from the following agencies (Table 1).

Table 1.
1. Army Corps of Engineers.
2. State of Hawaii Department of Health, Clean Water Branch.
3. DLNR- Department of Aquatic Resources, Historic Preservation, Land Division
4. Beach Nourishment Panel of Technical Experts (special interdisciplinary advisory panel)

EXHIBIT "D"

5. NOAA National Marine Fisheries Service
6. NOAA Pacific Islands Regional Office
7. U.S. Fish and Wildlife Service
8. University of Hawaii, Sea Grant Program
9. Maui County Planning Department
10. State of Hawaii, Office of Hawaiian Affairs

PURPOSE OF PROPOSED ACTION:

This is a planned regional beach restoration project. The proposed project is designed to mitigate the effects of chronic and seasonal coastal erosion fronting the subject property, restore the beach and nearshore area with sand, and to improve lateral access for the general public. As such the applicant is requesting permission to place approved beach quality sand on the public beach for the benefit of all beachgoers including swimmers, recreational canoe paddlers, divers, fisherman, windsurfers, kite-surfers, boogie-boarders, snorkelers and walkers.

The objective of this project is to restore and stabilize the beach along Stable Road in the project area as defined in the application (Figure 1). This objective will be met by placing up to 10,000 cubic yards of compatible beach sand along the shoreline and installing a series of four temporary geotube groins to minimize sand loss during seasonal changes in sediment transport caused by wind, waves, and currents. If the beach and environmental performance objectives are met, a more permanent engineered solution may be implemented at a later date. The Geotube groins are an important part of the pilot project design and the applicant's environmental monitoring of the project is intended to provide quantitative data to supplement any future applications for shoreline protection in the project area. The SSBN terms and conditions allows for placement small-scale, temporary sand retention structures such as groins. The geotube material can provide a stable shoreline structure that has the benefit of being temporary in that it can be cut open and removed in a relatively short period of time. The SSBN authorization for this project is conditioned such that the proposed geotube groins are temporary and the authorization for them will expire 4 years from the date of completion after which the geotubes will need to be removed or approval sought for a permanent retention through the proper individual permit process.

Sand transport and circulation at Stable Road Beach is very complex. The volume of sand on the beach varies seasonally. In summer, large quantities of sand are eroded from Lots 5, 6, and 7 at the east end of the project while the beach accretes at Lots 2, 3 and 4 at the west end. In winter, the system reverses and Lots 5, 6, and 7 build while Lots 3 and 4 erode. Erosion during the summers of 2006 and 2007 was more severe than many residents had previously seen (Figure 2). During the 2007 erosion/accretion cycle, there was a net loss, as measured by beach profile surveys of the summer and winter beach, of approximately 3,700 cubic yards of sand from the project properties.

Long-term erosion rates (termed "Annual Erosion Hazard Rate") at the project site, as calculated by the University of Hawaii Coastal Geology Group, vary between 1.0 and 1.5 feet per year. The measured long-term erosion rates indicate that erosion experienced at the site is not temporary or localized. Seasonal high surf can threaten the properties even when the winter beach is at its widest. One way to correct the problem is to increase the beach width by adding sand and by stabilizing the sand with temporary structures.

DESCRIPTION OF PROPOSED ACTION:

DLNR's Hawaii Coastal Erosion Management Plan (COEMAP) recommends that coastal engineers use an integrated design approach for beaches where erosion is chronic due to diminished sediment supply and where dynamic beach segments must be stabilized. The integrated design approach uses beach nourishment combined with sand retention devices (groins) to slow the loss of nourished sand. The design is intended to retain some of the nourished and existing sand but will not totally prevent sand transport around the structures and out of the project area, either along shore or offshore. Beach width is expected to temporarily increase after sand is placed, but sand is able to move outside the influence of the groins. The groins and nourished sand will not extend beyond the recent 1990's location of the beach toe, thus this is a beach *restoration* rather than beach creation. The area just offshore from the beach is mostly coralline rock and coral rubble and will be monitored by marine biologists as part of the required biological monitoring plan. Nourished sand that moves into this rubble area would have the same effect on the existing marine life than the sand that currently moves seasonally along the beach and nearshore.

Mitigation for the Stable Road Beach coastal erosion is to nourish the beach with offshore sand and extend the toe seaward to a previous historic location. The basic premise is to restore the beach to a previous (approximately 1990) position. Since the local sediment transport mechanism causes large seasonal changes in beach volume, temporary Geotube groins are proposed to retain some of the nourished sand and maintain a stable beach. A more stable beach will allow better lateral access to the beach by the public and property owners and will reduce erosion of soil and vegetation that pollute nearshore waters. The Geotubes will be filled with approximately 1000 Cy of sand from an approved source. This sand deficit will be offset by the proposed offshore sediment fill. Four temporary groins are proposed for the 900-foot project length (Figure 3). The groins are designed with short (25 foot) Geotube sections at their seaward ends. This allows modifying the configuration without replacing the entire Geotube if observation shows changes are needed. The base length of each groin is 50 feet, which is a minimum size for an active beach. The 25-foot Geotubes can be arranged into "L", "T", or "fish tail" configurations to extend the base groin on as-needed basis.

Seasonal sand movement along the Stable Road Beach is very dynamic. Fewer than four groins may not provide enough sand retention to protect the embankment unless they were longer than the proposed 50–75 feet. The Army Corps of Engineers' manual suggest that the ratio between the groin interval and groin length and should be 2-3. The proposed groins have a ratio closer to 4 meaning that they are relatively short in relation to the gap distance between them and will retain/trap less sand than groins designed to the Corp's guidelines.

A 75-foot straight groin will be placed fronting Lots 5 and 6. This groin together with the "L" groin at Lot 7 will protect the worst eroded areas during summer by holding a minimal beach width while allowing some existing/nourished sand to bypass to the west. The groin will also hold some sand that would move east during the winter but will not stop all transport when the beach is rebuilding. Nourished sand will be placed on both sides of this groin. A "fish tail" groin will be placed at the seawall between Lots 3 and 4. The fish tail shape assists in redirecting seasonal wave energy from either the northwest or northeast to push sand toward the beach. The shape also slows any seaward rip currents that might flow along the groin stem. The groin may help keep sand in the corner between Lots 3 and 4 and should hold some sand in front of the revetment at Lot 3. The fish tail shape also allows a shorter groin to be used. This is the terminal groin at the west end of the

project. Since both Lot 2 and the lot to the west have seawalls, very little sand accumulates along these properties. Nourished sand will be placed on both sides of this groin to mitigate any loss at the down drift beaches.

NOURISHMENT

The proposed 10,000 cubic yards of sand will be placed over about 1,000 linear feet of beach. Sand will be placed between groins in a construction profile that extends from the top of bank to the seaward end of the groins and fills to the top elevation of the groins, 6 feet on some groins and 3 feet on the others. After exposure to waves, some of the nourished sand may move out past the groins and into the local system.

Based on the estimated annual sand loss of 3,700 cubic yards and annual erosion rates of 1.5 feet, the applicant estimates the beach should be re-nourished every 5-10 years if an effective groin system remains in place. If the groins are removed, the beach may need re-nourishment in less than 3 years. However, monitoring of the nourished beach profiles and effectiveness of the groins will allow a better estimate of nourishment intervals and part of the intent and scope of this project. Sand samples from the site and from an offshore source have been analyzed and compared in the Marine Environmental Description provided under separate cover. The offshore source sand is compatible with the existing beach sand and meets the minimum state sand compatibility specifications and has a preliminary approval from the OCCL for placement.

GEOTUBE GROINS

The project includes temporary geotube groins that are configured similar to working groin fields located farther west along the shoreline. Using temporary groins allows the erosion and accretion to be studied essentially as a full-scale model that could be modified after observing results. The geotube groins should be monitored for at least 3 years. Where erosion is worst, the groins are buried in the beach face up to 6 feet below the top of the bank to accommodate large seasonal changes in beach elevation and profile. A pyramid of three tubes will be used at Lots 5, 6, and 7 at the project's east end. Single geotubes will be used between Lots 3 and 4 at the west end where erosion is less severe. These will be laid on the surface or buried slightly for stability.

The geotube groins will extend from the top of the shoreline embankment out to a water depth of about 2 or 3 feet below sea level. A 75-foot groin will reach the approximate toe of the beach. The planned groins provide a partial template for the existing beach but do not prevent sediment transport along the coast. Geotubes are heavy-weight fabric tubes that are made to the customer's specifications. The fabric is tough and can be coated to be even stronger. If the geotubes are damaged by use or vandalism, they can be repaired by patching with glue or by sewing. Scour aprons can be placed under the tubes to give additional protection from wear on rocks. The empty geotubes will be laid out in the desired position and then filled by pumping slurry of sand and water into the tubes. Sand for filling the tubes will come from approved source. A 75-foot geotube will contain about 61 cubic yards of sand. A 50-foot geotube will contain 41 cubic yards. The geotube groins proposed will hold approximately 500 cubic yards total and will be filled with sand from an approved source.

Scope of Work

1. Beach nourishment area to include approximately 3,000 ft^2 within the sandy beach area fronting the property.

2. Beach nourishment area to include the 1000 foot-long beach fronting the subject properties TMK (2) 3-8-002:65, 94, 71, 77, 74 & 78.

3. Sand fill will be placed at a slope of roughly 1V:10H, up to the +10 ft elevation and may extend landward of the shoreline with prior County approval.

4. Four, 50 ft to 75 ft long by 16 ft wide temporary Geotubes to enhance retention of the fill sand. Authorization for these groins will expire 4 years from the installation/completion date.

5. Total sand volume for this project is limited to 10,000 cubic yards (CY).

The work plan provides a narrative of the equipment, materials, methods, and management that will be used to implement the Category 2 Small Scale Beach Nourishment project at Stable Road beach west of Spreckelsville on the north side of Maui. In summary:

1. Up to 10,000 yd^3 of clean coral sand will be collected using a suction dredge from 2,200 feet offshore.

2. The collected sand will be pumped in slurry via pipeline to the nourishment area.

3. Four geotextile tube structures will be constructed perpendicular to the beach to enclose the work area and provide temporary protection from recurring erosion.

4. Sediment control measures will be laid around the enclosed work area in conformance with typical nearshore best management practices.

5. The permitted 10,000 yd^3 of sand will be pumped into the nourishment area and shaped into a beach.

6. An agreement and associated escrow account for the estimated cost of groin removal ($48,263) are made part of this authorization and are subject to execution by the Department in accordance with the terms of the agreement.

CONSTRUCTION SCHEDULE

Beach nourishment is planned for a 3-week period, depending on weather and surf. All construction equipment and materials arrive at Stable Road within the first 5 days of the 21-day construction interval and depart on the 22nd day. The applicant anticipates the following construction schedule:

Task	Begin Day	End Day
Baseline Environmental Monitoring	-10	0
Install Safety Fences and Signs	1	30
Install HDPE Pipeline	1	5
Install Perimeter Silt Curtains	2	3
Construct Stilling Basin from Silt Curtain	3	5
Mobilize Earthmoving Equipment	3	3
Mobilize Barge and Pumps	4	5
Suction Dredging and Settling	5	21
Water Quality Monitoring	5	26
Fill and Place Sand Tubes	5	12
Rough Beach Shaping	7	21
Final Beach Shaping	20	21
Demobilize and Decommission	21	22

Water quality monitoring includes a baseline interval before the equipment arrives at the site, daily during the project and then continuing 5 days after the end of the nourishment work. Dredging and sand settling work will be performed continuously during a break in the weather and surf. The applicant will obtain necessary noise permits and will coordinate the construction schedule with neighbors. It is anticipated the project will initiate construction activities in June, 2009.

PERSISTENT ACTIVITIES

Certain activities in the Stable Road SSBN project occur throughout the entire project. The chronological organization of this work plan, in some instances, may not adequately describe these activities as occurring each day, often more than once. These persistent activities include:

1. Weather Monitoring: Offshore equipment and methods are appropriate for moderate winds and low surf. Severe weather will cause the offshore equipment to retreat to Kahului Harbor, which process takes approximately a half-day. The contractor will monitor weather, surf, and wind forecasts frequently each day and will begin the decamping process as soon as the prediction is for weather exceeding safe operating conditions for the equipment and anchorage system in place.

2. Water Quality Monitoring: Water samples from within and around the work area will be collected, tested in the field, and shipped to the laboratory as appropriate at the intervals required by the Water Quality Monitoring Plan approved by the Department of Health.

3. Structural BMP Maintenance: Silt curtains, pipeline marker buoys, safety fencing, and other BMP's will be checked and maintained daily throughout the course of the project. The Work Plan indicates when in the process the BMP's are initially installed and when they are removed; maintenance is a persistent activity.

4. Sand Quality Monitoring: The Sand Characterization Report indicates ample quantities of high-quality sand. The sand discharged on the beach will be monitored constantly during pumping. Radio communication from beach to dredge will allow modifications or pauses if the dredge is collecting material of unacceptable quality.

5. Reporting: Field data will be available immediately and transmitted to the review agencies in each daily field report. The Engineer will distribute laboratory data within 1workday of receipt.

RELAVANT PROJECT AUTHORIZATIONS:

Agency	Permit	Status
1. Maui County Department of Planning	SMA/Setback	Approved Feb 9, 2009
2. Dept of Health, Clean Water Branch	Sect 401/WQC	Pending, anticipate approval
3. NOAA PIRO	Monitoring plan	Pending, anticipate approval
4. NOAA, NMFS	Monitoring plan	Pending, anticipate approval
5. Army Corps of Engineers	Sect 404/DA	SSBN- blanket permit
6. CZM Federal Consistency	CZM Determination	SSBN- blanket permit

SUMMARY:

Categories of Activities
This project falls within the scope of a Category II project. Category II projects involve the placement of up to 10,000 cubic yards of sand within the shoreline area.

In accordance with the SPGP/SSBN the following activities are considered for approval:

1. Offshore extraction of up to 10,000 cubic yards of marine sediment via hydraulic dredging and pumping to the onshore project area.

2. The placement of up to 10,000 cubic yards of sand for the purposes of restoring and nourishing the beach fronting the subject properties. The sand source is subject to final review and approval by the DLNR.

3. Construction and installation of approved sediment retention structures, including 4 geotextile "geotubes" to function as temporary groins. Authorization for the groins expires four years after completion of construction.

4. Construction and installation of appropriate and effective silt containment devices, including settling and retention basins and silt curtains.

5. Initiation and mobilization of applicable mechanical equipment, including the use of heavy equipment on the beach to mobilize and shape the imported sand to the designed beach profile.

6. An agreement and associated escrow account for the estimated cost of groin removal ($48,263) are made part of this authorization and are subject to execution by the Department in accordance with the terms of the subject groin removal performance agreement.

7. Anticipated construction start date is June-July, 2009.

FINDINGS:

After reviewing the application, the Department finds that:

1. The proposed activities (beach nourishment and dune restoration) are identified land uses within the Resource subzone of the Conservation District, according to Section 13-5-24, Hawaii Administrative Rules (HAR);

2. The project is consistent with the purpose of the Conservation District and consistent with the goals and objectives of the Hawaii Coastal Erosion Management Plan (COEMAP) adopted by the Board of Land and Natural Resources in 1999. It is a major goal of COEMAP to promote alternative erosion control and beach nourishment efforts such as this.

3. The engineering design approach taken has been to develop an effective design with the smallest environmental and community "footprint" possible and follows the SSBN and COEMAP guidelines and policies.

4. No new littoral cell is being created by the proposed system of groins. In other words existing transport pathways will be maintained and the project scope should not interrupt the natural transport of sediment along the coast.

5. The applicants have taken adequate measures to minimize negative effects on the up drift or down drift beaches outside the project site. These measures are reflected in the performance monitoring and metrics plans for the beach, water quality and biological/benthic habitat. These plans reflect the willingness on the part of the applicant to minimize negative impacts to the marine environment from the project and are contributing innovative practices and procedures to the state's beach restoration program.

6. The nourished sand and groins will be placed on an area periodically buried by the beach, and no significant or unusual impact to the nearshore ecological environment is anticipated.

CONCLUSIONS:

The following section is provided as a summary and conclusions of the application:

1. In conformance with Chapter 343, Hawaii Revised Statutes (HRS), a Draft Environmental Assessment (DEA) was published in the Environmental Notice for the blanket CDUA (ST-3000) on March 8, 2000. The DLNR, issued a Finding of no Significant Impact to the Environment (FONSI) on May 18, 2000. The FONSI was published in the June 8, 2000 OEQC, *Environmental Notice.*

2. A Public Notice was prepared for publication in the Office of Environmental Quality Control (OEQC) *Environmental Notice* and published in the March 23, 2008 issue. In addition at least three separate news articles were published on the Maui News regarding

the proposed project in the summer of 2008.

3. A public information meeting was held on July 30, 2008 in Spreckelsville, Maui in response to public concern over the potential environmental impacts to the nearshore. This public information meeting was publicized in the local media and well attended with nearly 50 people present. The applicants and their consultants along with DLNR and Maui County Planning staff were present to provide a project overview and address public questions. Based on this meeting several significant modifications were made to the project scope and monitoring based on comments received from the public.

4. The applicant(s) held several separate private meetings voluntarily with interested members of the community to discuss the detailed marine monitoring plans and to acknowledge local fishermen concerns over habitat loss and water quality issues.

5. A request for comments for the subject SSBN application was sent to the following agencies and persons. Comments received are reflected in the terms and conditions:
   a. Department of Health- Clean Water Branch,
   b. Army Corps of Engineers
   c. National Marine Fisheries Service
   d. Office of Hawaiian Affairs (OHA)
   e. Division of Aquatic Resources (DLNR)
   f. Maui Co Planning Dept
   g. University of Hawaii Sea Grant Program
   h. Hawaii State Historic Preservation Division
   i. Hawaii Coastal Zone Management Program
   j. NOAA (PIRO)
   k. U.S. Fish and Wildlife Service
   l. Beach Nourishment Panel of Technical Experts.

6. Chapter 205A, HRS encompasses most land, water and marine areas of the State. Section 205A-2(a)(9)(C) states that it is a policy of CZM, to "minimize" the construction of public erosion-protection structures seaward of the shoreline unless it is in the public interest. In this case, the erosion control structure is a temporary demonstration project that serves to compliment the beach fill project. These are more commonly referred to as soft structures. Sand nourishment is the "softest" structure that can be used as shoreline protection.

7. The revised biological monitoring plan and beach performance plans are acceptable to the DLNR. These have been reviewed by the National Marine Fisheries Service, DAR and the NOAA (PIRO). Several significant modifications were made to the project scope and monitoring based on input from NOAA and DAR. The performance and environmental monitoring metrics assess the project performance standards and evaluate potential mitigation of ecological and environmental degradation attributed to the project. The approved performance and monitoring metrics include:
   i. A lateral beach access plan.
   ii. Performance monitoring and metric guidelines for beach erosion.
   iii. Performance monitoring and metric guidelines for water quality.
   iv. Biological and benthic habitat performance monitoring and metric guidelines.

v. A final construction work plan.
vi. Best Management Practices (BMP) Plan
vii. Geotube modification and removal plan.

8. ***Panel of Technical Experts***
A special Panel of Technical Experts (PTE) was formed to review Category II applications in order to ensure consistency with the provisions of the SPGP and to maintain a high level of environmental safeguards. The panel has reviewed the application and provided comments and recommendations to OCCL staff. Several significant modifications were made to the project scope and monitoring based on comments received from the panel including reducing the total number of groins from 7 down to 4 and revision of the settling basin designs.
This independent panel currently consists of:

➢ *Dr. Charles Fletcher*, Coastal Geologist. University of Hawaii, School of Ocean and Earth Science and Technology Department of Geology and Geophysics.
➢ *Tom Smith*, Coastal Engineer. U.S. Army Corps of Engineers, Pacific Ocean Division.
➢ *Alan Everson*, Marine Biologist. NOAA National Marine Fisheries, **Pacific** Islands.
➢ *Heidi Kai Guth*, Lead Advocate, Office of Hawaiian Affairs.

9. **The final approval of the project (MA-08-01) is contingent upon the following:**
a. Issuance of a Department of Health (DOH) Section 401, WQC for the project either through an individual DOH WQC Section 401 or equivalent or re-issuance of the blanket WQC for the SPGP.
b. The proposed sediment source meets the state's specifications.
c. Authorization for the geotube groins is temporary and will expire four (4) years after completion of the initial construction of the project.
d. As a method of ensuring timely and adequate removal of the temporary geotube groins an agreement between the DLNR and the Applicant (SRBRF) has been effected that identifies an escrow account has been setup for 150% of the estimated cost of removal of the groins allowing the DLNR to utilize the account as necessary.

STAFF RECCOMENDATION:

Staff has determined that this project is consistent with the purpose of the Conservation District and consistent with the goals and objectives of the Hawaii Coastal Erosion Management Plan (COEMAP) adopted by the Board of Land and Natural Resources in 1999. It is a major goal of COEMAP to promote appropriate erosion control and beach nourishment efforts such as this.

Your request to conduct beach restoration by placing up to 10,000 yd^3 of beach quality sand and four (4) temporary geotube groins fronting the subject property is APPROVED as a Category II small-scale beach nourishment permit. This approval is conditional on the proposed sand meeting state requirements for quality and composition. The placement of sand will be subject but not limited to all of the following terms and conditions in addition to the terms and conditions outlined in the application guidelines (SSBNguide-CatII.doc):

TERMS AND CONDITIONS:

1. Monitoring of the nearshore water quality shall be conducted in accordance with the approved best management practices and water quality monitoring plan;

2. An agreement and associated escrow account for the estimated cost of groin removal ($48,263) are made part of this authorization and are subject to execution by the Department in accordance with the terms of the subject groin removal performance agreement;

3. Work shall be conducted during calm weather periods to the most practical extent possible and no work shall occur if there is high surf or ocean conditions that will create unsafe work or beach conditions;

4. The applicant shall obtain the appropriate land disposition approval for the work; this may include a Right of Entry from the State Land Division Maui District Office (808) 984-8103;

5. A shoreline delineation was conducted by OCCL staff on 4/29/2008 (Figure 3). During this site visit staff delineated the shoreline based on evidence present at the time. This map shall be utilized for subsequent shoreline certifications and delineations related to the subject parcel(s);

6. To avoid encroachments upon the area, the applicant shall not use artificially accreted areas due to nourishment as indicators of the shoreline;

7. The applicant shall submit a summary project completion report to the DLNR within 90 days of the completion of the project describing the status of the fill, as-built plans if any changes were made to the proposed designs, what maintenance actions took place and include photographic or other quantitative evidence (beach profiles or volume calculations) of the beach conditions;

8. The applicant shall comply with all applicable statutes, ordinances, rules, and regulations of the federal, state, and county governments for projects authorized under this authorization including obtaining an appropriate land disposition such as a right of entry. Department authorization of the proposed project does not eliminate this responsibility;

9. Authorization of the sand use and placement is contingent upon review and approval of the sand by the Department. The sand shall meet the following State quality standards:

    a) The proposed fill sand shall not contain more than six (6) percent fines, defined as the #200 sieve (0.074 mm). We understand the proposed sand source to contain less than two (2) percent fine material;
    b) The proposed beach fill sand shall not contain more than ten (10) percent coarse sediment, defined as the #4 sieve (4.76 mm) and shall be screened to remove any non-beach compatible material and rubble;
    c) No more than 50 (fifty) percent of the fill sand shall have a grain diameter less than 0.125 mm as measured by #120 Standard Sieve Mesh;

d) Beach fill shall be dominantly composed of naturally occurring carbonate beach or dune sand. Crushed limestone or other man made or non carbonate sands are unacceptable;

10. Based on the supplied information, the proposed sand meets the minimum standards and is of best available quality and is preliminarily accepted;

11. Sand used for restoration shall be screened of course material (rocks) and any non beach compatible material;

12. The applicant shall implement the proposed Best Management Practices (BMPs) and an approved monitoring and assessment plan to maintain (BMP's) to minimize dirt and silt from entering the ocean and the ability to contain and clean up fuel, fluid, or oil spills immediately for projects authorized under this authorization and immediately report any spill(s) or other contamination(s) that occurs at the project site to the Department of Health and other appropriate agencies;

13. The applicant shall ensure that excessive siltation and turbidity is contained or otherwise minimized to the satisfaction of the all appropriate agencies, through silt containment devices or barriers, high sand quality and selective sand placement or other requirements as necessary;

14. Appropriate safety and notification procedures shall be carried out. This shall include high visibility safety fencing, tape or barriers to keep people away from the active construction site and a notification to the public informing them of the project;

15. All placed material shall be free of contaminants of any kind including: excessive silt, sludge, anoxic or decaying organic matter, turbidity, temperature or abnormal water chemistry, clay, dirt, organic material, oil, floating debris, grease or foam or any other pollutant that would produce an undesirable condition to the beach or water quality;

16. The activity shall not adversely affect a Federally listed threatened or endangered species or a species proposed for such designation, or destroy or adversely modify its designated critical habitat;

17. The activity shall not substantially disrupt the movement of those species of aquatic life indigenous to the area, including those species, which normally migrate through the area;

18. When the Chairperson is notified by the applicant or the public that an individual activity deviates from the scope of an application approved by this letter, or activities are adversely affecting fish or wildlife resources or their harvest, the Chairperson will direct the applicant to undertake corrective measures to address the condition affecting these resources. The applicant must suspend or modify the activity to the extent necessary to mitigate or eliminate the adverse effect;

19. When the Chairperson is notified by the U.S. Fish and Wildlife Service, the National Marine Fisheries Service or the State DLNR that an individual activity or activities authorized by

this letter is adversely affecting fish or wildlife resources or their harvest, the Chairperson will direct the applicant to undertake corrective measures to address the condition affecting these resources. The applicant must suspend or modify the activity to the extent necessary to mitigate or eliminate the adverse effect;

20. Where any interference, nuisance, or harm may be caused, or hazard established by the activities authorized under this letter, the applicant shall be required to take measures to minimize or eliminate the interference, nuisance, harm or hazard;

21. No contamination of the marine or coastal environment (trash or debris) shall result from project-related activities authorized under this letter;

22. In the event that historic archeological deposits, including human burials are uncovered during construction activities, all work in the vicinity must stop immediately and contact the State Historic Preservation Division at (808) 692-8015. Note: Known historic sites in the immediate area are not expected to be disturbed. The proposed excavation activities for the geotube groins shall be carried out seaward of the existing seasonal erosion berm and within the active beach face. No excavation activities shall occur landward of the seasonal erosion berm without an approved archeological monitoring plan;

23. At the conclusion of work, the applicant shall clean and restore the site to a condition acceptable to the Chairperson;

24. Any work or construction authorized under this authorization shall be initiated within six (6) months of the approval of such use, and shall be completed within one (1) year of the approval. The applicant shall notify the DLNR in writing 1 week before construction activity is initiated and when it is completed;

25. Authorization for the geotube groins is temporary and will expire four (4) years after completion of the initial construction of the project. After 3 years, the applicant shall begin the process of evaluating the impact of removal of the geotubes or start the application process to permanently retain the structures through the appropriate regulatory process;

26. The DLNR reserves the right to impose additional terms and conditions on projects authorized under this letter, if it deems them necessary;

27. Failure on the part of the applicant to comply with any conditions imposed under this letter shall render the letter null and void;

28. The applicant, its successors and assigns, shall indemnify and hold the State of Hawaii harmless from and against any loss, liability, claim or demand for property damage, personal injury or death arising out of any act or omission of the applicant, its successors, assigns, officers, employees, contractors and agents under this action or relating to or connected with this action.

Please acknowledge receipt of this approval, with the above noted terms and conditions, in the space provided below. Please sign , retain a copy and return the other within thirty (30) days. Please notify the OCCL in advance of the anticipated construction dates and notify the OCCL immediately if any changes to the scope or schedule are anticipated.

Should you have any questions on any of these conditions, please contact Dolan Eversole at the Office of Conservation and Coastal Lands (OCCL) at (808) 587-0321.

By:_____
LAURA H. THIELEN, Chairperson
Board of Land and Natural Resources

I concur with the terms and conditions of this letter:

_____
Applicant's Name (Print)

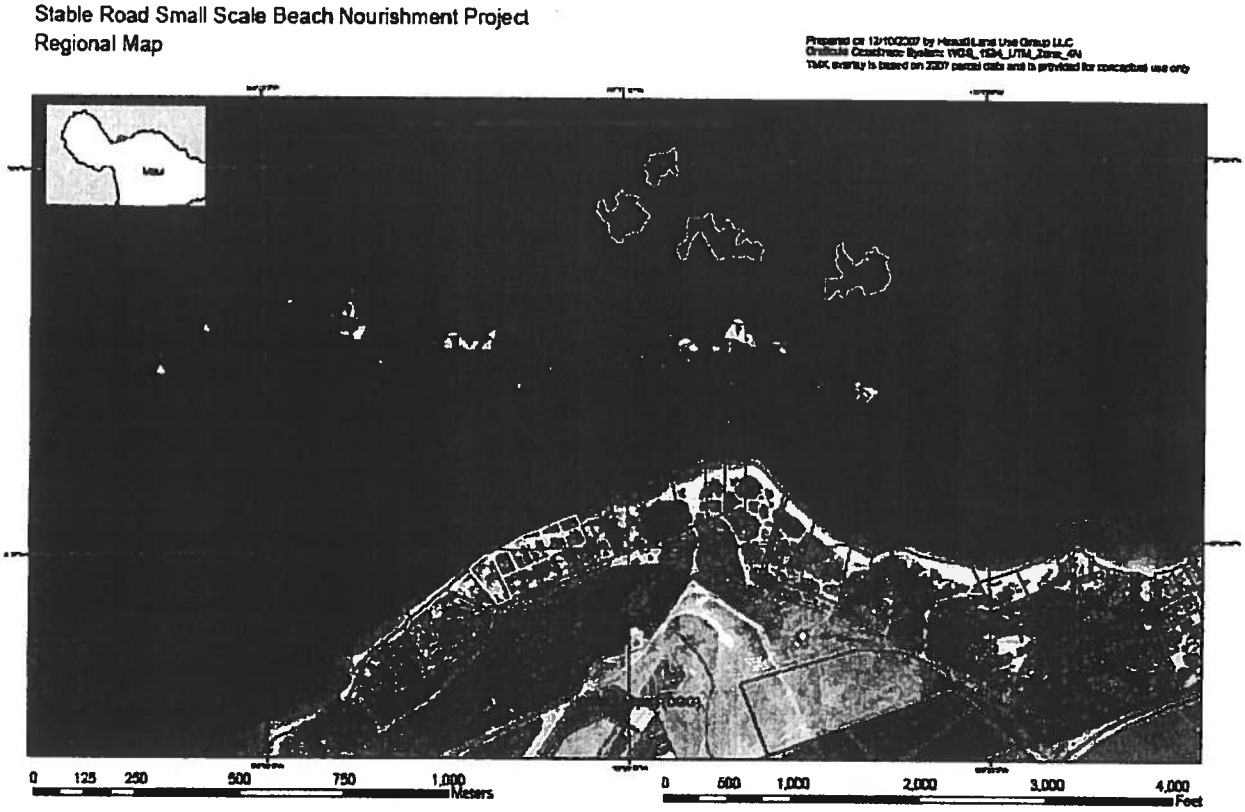
_____
Applicant's Title (Print)
Stables Road Beach Restoration Foundation, Inc. (SRBRF)

_____ Date_____
Applicant's Signature

Attachments (4): Figures 1-4.

Cc: Chairperson
Maui Board Member
DAR/SHPD/MDLO
DOH-CWB/ ACOE/ OHA/CZM
Alan Everson (National Marine Fisheries Service)
Jeff Hunt (Maui Co Planning Dept)
Thorne Abbott (Maui Co Planning Dept)

Figure 1. Project Area



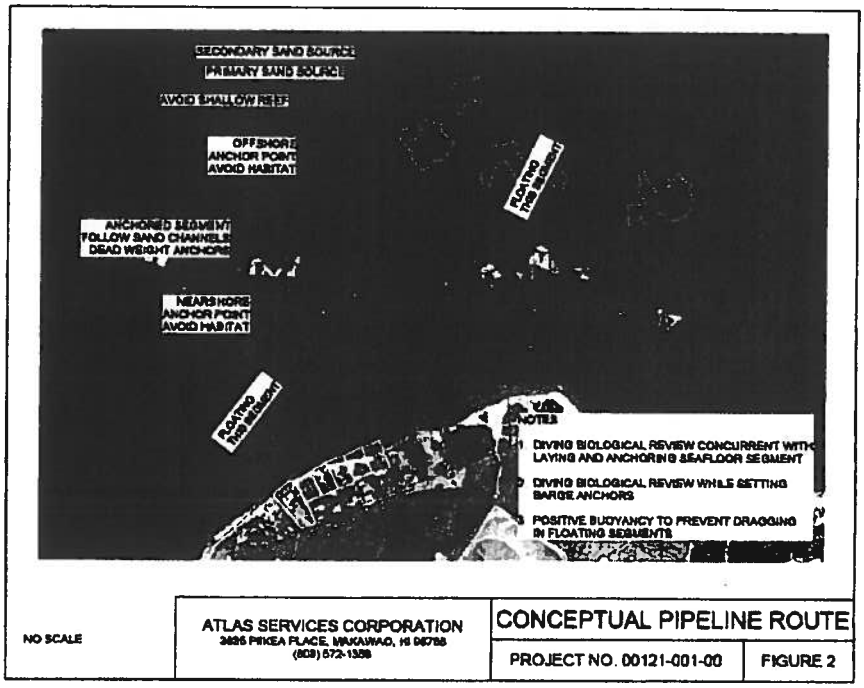


Figure 2. Existing Site Conditions

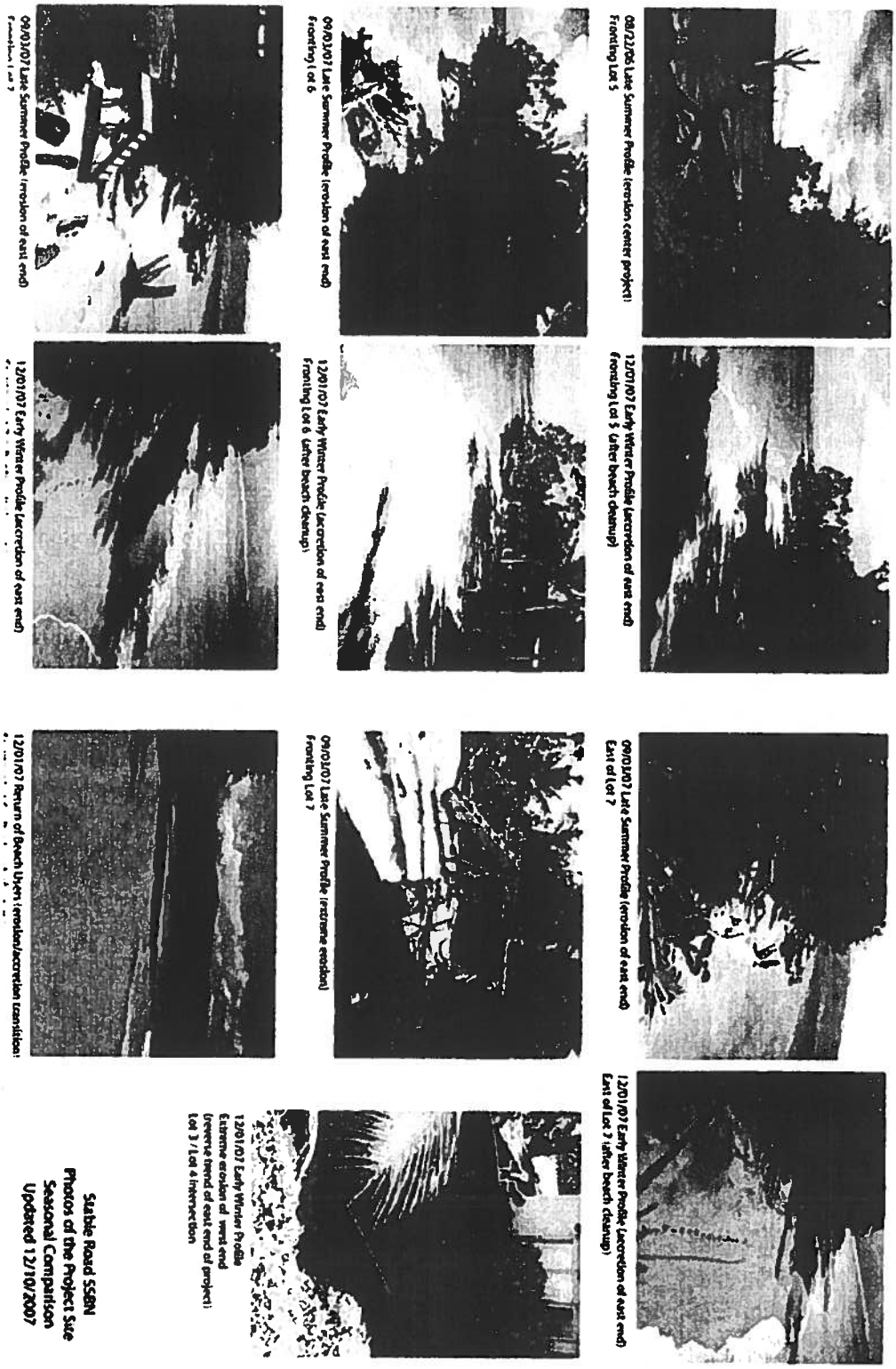
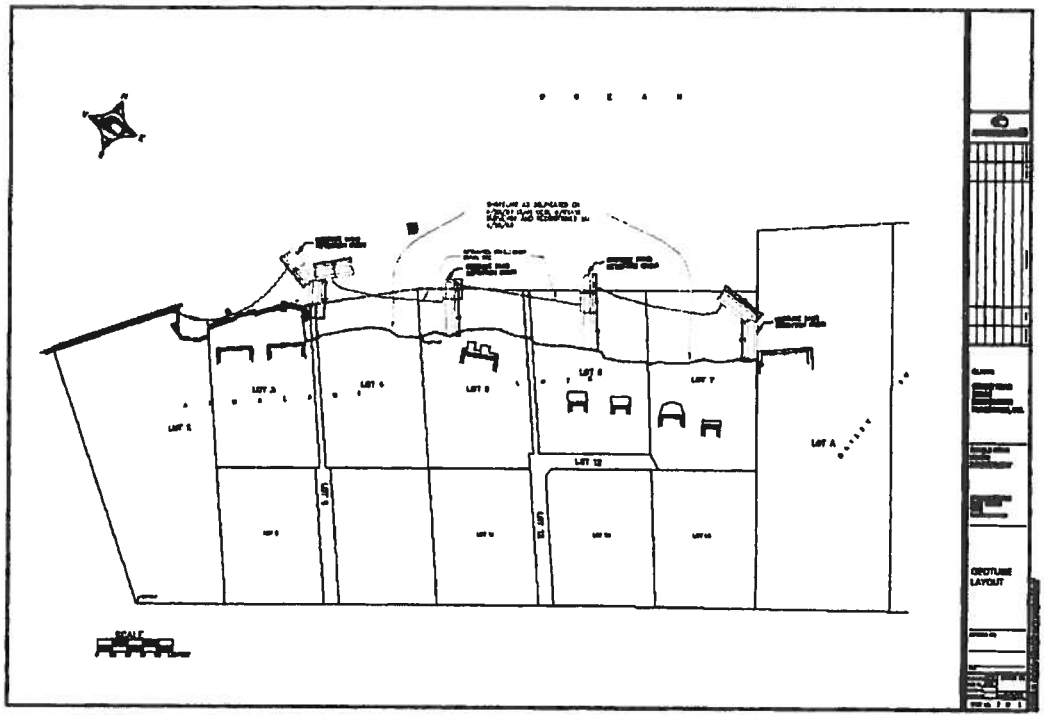


Figure 3. Project Site Plan



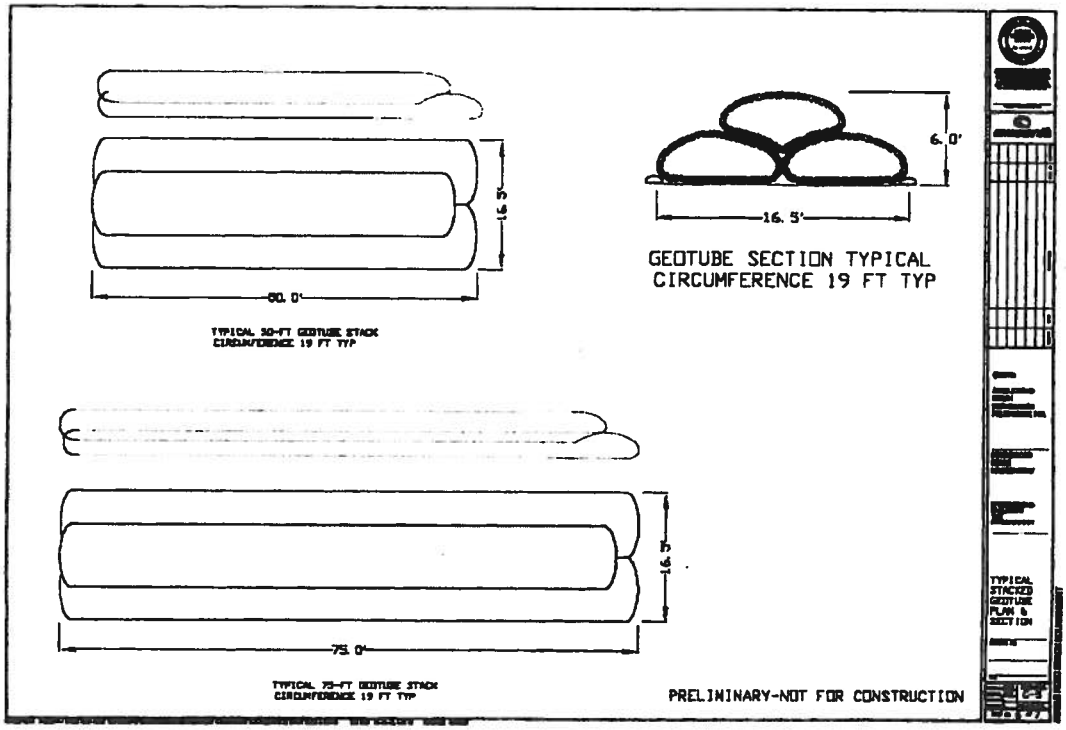
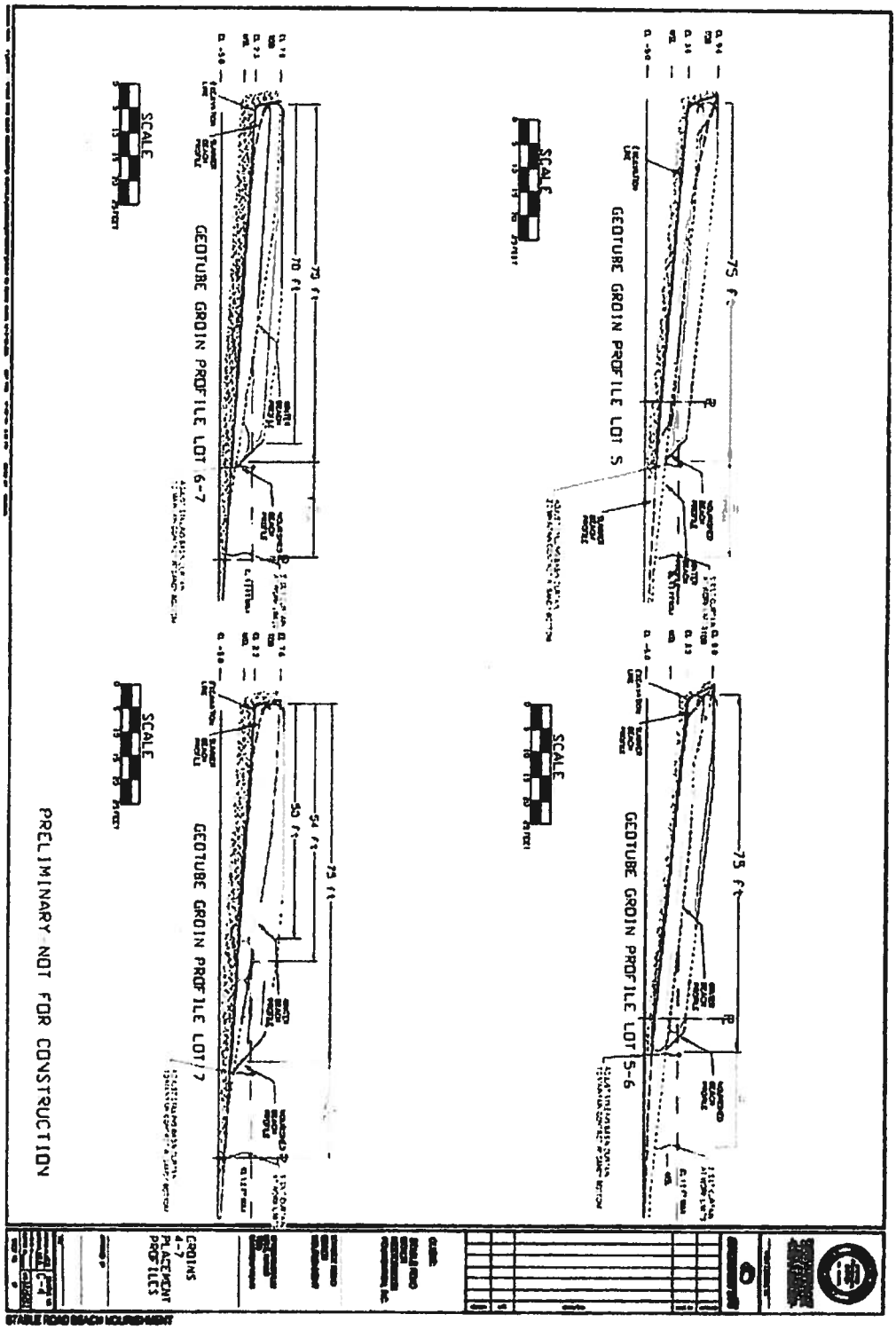


Figure 3. Project Site Plan



LINDA LINGLE
GOVERNOR OF HAWAII

STATE OF HAWAII
DEPARTMENT OF HEALTH
P. O. BOX 3378
HONOLULU, HI 96801-33780

CHIYOME L. FUKINO, M.D.
DIRECTOR OF HEALTH

In reply, please refer to
DOH/CWB

WQC751.FNL.10

March 10, 2010

Mr. Jeffrey A. Lundahl
President
Stable Road Beach Restoration Foundation, Inc.
590A Stable Road
Paia, Hawaii 96779-9755

Dear Mr. Lundahl:

Subject: Section 401 Water Quality Certification (WQC) Application
Stable Road Beach Nourishment Evaluation Project
Paia, Island of Maui, Hawaii
File No. WQC 0000751/DA File No. POH-2008-00064

In accordance with the provisions of the Clean Water Act, as amended (33 U.S.C. 1251 et seq.; the "CWA"); Hawaii Revised Statutes (HRS), Chapters 91, 92, and 342D; Part 121 of Title 40, Code of Federal Regulations (CFR); and Hawaii Administrative Rules (HAR), Chapter 11-54; the Department of Health (DOH), has reviewed your Section 401 WQC Application and appurtenant data relevant to water quality considerations for the subject proposed construction activities. The discharge activities associated with the construction of the subject project will be authorized under the U.S. Department of the Army (DA), Honolulu Engineer District (HED), State Programmatic General Permit (SPGP) No. SPGP 2001-01 under DA File No. POH-2008-064 to be issued under the authorization of Rivers and Harbors Act of 1899 (RHA, 33 U.S.C. 403), Section 10 and CWA, Section 404. The processing of this Section 401 WQC Application is based on the requirements contained in CWA, Section 401; HRS, Chapters 91, 92, and 342D; 40 CFR Part 121; and HAR, Chapter 11-54.

The following is the information of the owner:

Owner:

Stable Road Beach Restoration Foundation, Inc. (SRBRFI)
590A Stable Road
Paia, Hawaii 96779-9755

Contact: Mr. Jeffrey A. Lundahl, President
Phone: (808) 871-4110
Fax No.: (808) 871-4110
E-mail: jeffreyalundahl@msn.com

EXHIBIT "E"

The Director of Health (Director) attests to the following statements based on the information contained in the September 1, 2008 Section 401 WQC Application and December 4, 2009 revised Section 401 Application (Application) including the "Attachment" Sections A1 through G2, received on December 8, 2009, as listed in the Enclosure.

1. The Director has either:

   a. Examined the application submitted by the SRBRFI and bases its certification upon an evaluation of the information contained in such Application which is relevant to water quality considerations; or

   b. Examined other information furnished by the SRBRFI sufficient to permit the statement described in Item No. 2. below.

2. When all requirements and conditions contained in this Section 401 WQC are fully complied with, there is reasonable assurance that the discharges resulting from the proposed construction and the maintenance/modification operations activities will be conducted in a manner which will not violate the applicable water quality standards and will comply with the applicable provisions of CWA, Sections 301, 302, 303, 306, and 307.

3. The following conditions are deemed necessary and shall be imposed with respect to the project construction and maintenance related discharge activities to be authorized under DA SPGP No. SPGP 2001-01 issued on April 25, 2005 provisions of CWA, Section 404 and RHA, Section 10 under File No. POH-2008-00064 and the State of Hawaii, Department of Land and Natural Resources (DLNR), Category II Small-Scale Beach Nourishment (SSBN) Application MA-08-01 provisional approval issued by the Office of Conservation and Coastal Lands on May 8, 2009, under File No. SSBN MA 08-01:

   a. The "discharge" activity and the purpose of the proposed discharge activity as described in Item Nos. 7.c and 7.d of the Application consists of:

      (1) There is discharge of the sand/water slurry pumping of existing beach sand to fill the temporary geotubes. The slurry discharge will come out the ends of the geotubes until they are full and sealed. This slurry discharge and work area will be contained by the perimeter sediment barrier. The geotubes are proposed to help retain the natural and nourished sand.

      (2) There is discharge of the pumped offshore sand/water slurry to the beach until the 10,000 cubic yards (CY) is pumped. This discharge will be contained by the nearshore stilling basin and outer sediment barrier work enclosure. The discharge is proposed to nourish the beach.

(3) There is possible equipment operation and maintenance fuel and lubricant pollutant discharge, which will be contained and treated immediately by appropriate pollution control devices (*See Application Attachment Section E2, Site-Specific BMPs for additional information).

(4) Temporary construction related sand/water slurry discharges and possible pollutant discharge as described above, although the pollutant discharge is not anticipated. No long term operational or consequential discharges are anticipated.

*See Application Attachment Section E2 for more information.

b. Materials to be temporarily or permanently placed into Pacific Ocean at Paia, Island of Maui identified under Item No. 10.e of the Application include the following:

Source	Composition	Quantity	Duration
Groins' beach sand fill	**Beach sand/ water slurry**	**800 CY**	**5 days**
Offshore sand pumping	**Sand/ water slurry**	**10,000 CY**	**10 days**
Possible pollutants	**Oils, grease, fuel**	**Minimal**	**Minimal**

*See Application Attachment Section E1, Construction Work Plan, describes the oil, grease and fuel compositions.

c. This Section 401 WQC:

(1) Shall be issued and become effective on the date of this letter.

(2) For offshore sediment (beach quality sand) dredging and the placement of 10,000 CY beach quality sand on the beach and the construction of four (4) temporary geotube groins fronting Tax Map Key (TMK) Nos. (2) 3-8-002:065, 094, 071, 077, 074, and 078 (seaward) shall expire two (2) years from the issuance date of the Section 401 WQC, or until the applicable water quality standards (WQS) are revised or modified, or when the DA SPGP 2001-01 work authorization verification is modified, revoked, suspended, or expired, or when the dredging and placement of 10,000 CY beach quality sand on the beach and the four (4) temporary geotube groins construction is completed, whichever is earliest. If the applicable State WQS is revised or modified before the two-year period and the discharge activity complies with the revisions or modifications, this Section 401 WQC shall continue to be valid for the remainder of the two-year period.

(3) For temporarily constructed four (4) geotube groins modification and maintenance shall expire four (4) years from the construction completion date of the four (4) temporary geotube groins. The Owner shall report the completion date to the CWB through e-mail cleanwaterbranch@doh.hawaii.gov within 14 calendar days of the completion date. All four (4) temporarily constructed geotube groins (geotubes only) shall be completely removed at the end of the four-year period at SRBRFI cost.

The Director, upon the written request from the SRBRFI, may consider administratively extending the expiration date of this Section 401 WQC for Item No. 3.c(3) only when the written request is accompanied with copy of the appropriate permit application(s) to demonstrate that SRBRFI is seeking applicable Federal, State and County permits for the construction of other types of engineered permanent shore protection structure(s) or permanent groins constructed with natural marine bottom materials that are compatible with the existing marine bottom material and meets applicable HAR, §11-54-7 requirements (not materials filled in the geotubes).

(4) May be revoked when any of the following is identified:

(a) The SRBRFI shall comply with all applicable new WQS as adopted by the DOH. In any case where:

(i) WQS applicable to the waters into which the activity may discharge are subsequently established before the activity is completed; or

(ii) The Director determines that the activity is violating new WQS.

The CWB will notify the SRBRFI of the violation. The SRBRFI shall cease the violation within 180 calendar days of the date of the notice. If the SRBRFI fails within 180 calendar days of the date of the notice to cease the violation, the Director may revoke this certification; and

(b) The Director determines that the discharge(s) from the activity is violating any existing WQS or condition of this Section 401 WQC, the CWB shall notify the SRBRFI of the violation. The SRBRFI shall cease the violation within seven (7) calendar days of the date of the notice. If the SRBRFI fails within seven (7) calendar days of the date of the notice to cease the violation, the Director may revoke this certification.

These actions shall not preclude the Director from taking other enforcement action authorized by law.

Written notification by the CWB under this section is complete upon mailing or sending a facsimile transmission mailing of the document or actual receipt of the document by SRBRFI.

d. The SRBRFI shall:

(1) Invite the DOH's representative(s) to attend the partnering, pre-construction or any other similar type of meeting that is established for the proposed construction project, if any.

(2) Comply with following sections of the "**Construction Plans and BMPs**" as specified in the Application Attachment:

Construction Plans and BMPs	**Date**
E1 Construction Work Plan	10/9/2009
E2 Site Specific BMPs Plan	10/9/2009
E3 Temporary Stilling Basin Design	10/9/2009
E4 Onshore Dewatering Plan	10/9/2009
E5 Silt Removal Plan (contingency)	11/5/2008
E6 Geotube Removal Plan (contingency)	8/3/2009
E7 Inland Work Plan	11/5/2008
E8 NPDES Permit Evaluation	9/27/2008

All questions/concerns that the DOH may have regarding modification/addition to BMPs measures accepted by DOH shall be answered to the satisfaction of the CWB prior to the installation of modified/additional BMPs measures.

(3) Conduct or contract with a qualified laboratory to conduct the "**Environmental Monitoring Plans**" as specified in the Application Attachment:

Environmental Monitoring Plans	
F1 Water Quality Cert. Performance Monitoring/Metric	8/3/2009
F2 Benthic Habitat Performance Monitoring/Metric	8/3/2009
F3 Beach Erosion Performance Monitoring/Metric	10/25/2009

Test methods promulgated in 40 CFR, Part 136, effective on July 1, 2006, and, when applicable, the chemical methodology for sea water analyses (see HAR, Section 11-54-10) shall be used. The detection limits of the test methods used shall be equal to or lower than the applicable WQS as specified in HAR, Chapter 11-54. For situations where the applicable WQS is below the detection limits of the available test methods, the test method which has the detection limit closest to the applicable WQS shall be used. If a test method has not been promulgated for a particular parameter, the applicant may submit an application through the Director for approval of an alternate test procedure by following 40 CFR §136.4.

The Director may, at the Director's own discretion or upon written request from you and on a case-by-case basis, require you to modify the monitoring frequency(ies), parameter to be monitored, or change the sampling locations, as appropriate. If a written request is submitted for the reduction of monitoring frequency(ies), it shall be accompanied by an assessment of monitoring results which shall clearly demonstrate that the project construction activity related discharge has fully complied with the applicable WQS.

Unless otherwise requested by the Director, water quality analytical results and relevant QA/QC results shall be submitted to the CWB in accordance with Environmental Monitoring Plans (sections F1 through F3) listed above. Only results from representative samples shall be acceptable. Representative sampling data shall be submitted to the CWB by e-mail at cleanwaterbranch@doh.hawaii.gov. All reports shall include **File No. WQC 0000751** and the certification statement below.

Color photographs shall be taken before and after the completion of the proposed construction activities. The photographs should show what the beach looked like before, during, and after the sand pumping. Copies of the color photographs taken should note the date and time the photos were taken. Photographs taken before the project construction shall be submitted to the CWB prior to the commencement of the project construction. Photographs taken after the construction shall be submitted to the CWB within two (2) weeks after the completion of the construction project.

(4) Ensure that all "discharges" associated with the proposed construction and operations related activities are conducted in a manner that will comply with "Basic Water Quality Criteria Applicable to All Waters" as specified in HAR, Section 11-54-4.

(5) Ensure that all material(s) placed or to be placed in State waters are free of waste metal products, organic materials, debris, and any pollutants at toxic or potentially hazardous concentrations to aquatic life as specified in HAR, Section 11-54-4(b).

(6) Ensure that the permitted activity will not result in noncompliance or violations to the following discharge limitations:

Discharge Limitations

(a) All waters shall be free of substances attributable to the sand placement-related activities authorized under this WQC and DA, SPGP 2001-01, including:

(i) Materials that will settle to form objectionable sludge or bottom deposits.
(ii) Floating debris, oil, grease, scum, or other floating materials.
(iii) Substances in amounts sufficient to produce taste in the water or detectable off-flavor in the flesh of fish, or in amounts sufficient to produce objectionable color, turbidity or other conditions in the receiving waters.
(iv) High or low temperatures; biocides; pathogenic organisms; toxic, radioactive, corrosive, or other deleterious substances at levels or in combinations sufficient to be toxic or harmful to human, animal, plant, or aquatic life, or in amounts sufficient to interfere with any beneficial use of the water.
(v) Substances or conditions or combinations thereof in concentrations which produce undesirable aquatic life.
(vi) Soil particles resulting from erosion on land involved in earthwork, such as the construction of public works; highways; subdivisions; recreational, commercial, or industrial developments; or the cultivation and management of agricultural lands.

(b) State waters, including sand beaches, affected by the sand placement-related activities is subject to monitoring and to the standards for acute and chronic toxicity and the protection of human health as specified in HAR, Subsection 11-54-4(b).

(c) Episodic deposits of flood-borne sediment shall not occur in quantities exceeding an equivalent thickness of 10 millimeters (0.40 inch) 24 hours after a heavy rainstorm.

(d) Oxidation - reduction potential (EH) in the uppermost 10 centimeters (four (4) inches) of sediment shall not be less than +100 millivolts.

(e) No more than 50% of the grain size distribution of sediment shall be smaller than 0.125 millimeters in diameter.

(f) The discharge resulting from the sand placement-related activity(ies) permitted under the authorization of DA, SPGP 2001-01, shall not interfere with or become injurious to any assigned uses made of (designated uses, as defined in HAR, Section 11-54-1, and specified in HAR, Section 11-54-3), or presently in (existing uses, as defined in HAR, Section 11-54-1, and specified in HAR, Subsection 11-54-1.1), those waters.

SRBRFI shall immediately cease the portion of the construction work if water quality monitoring or daily inspection or observation result(s) indicates that noncompliance to Item No. 3.d(6), above, will occur or is occurring. The construction and operations related activities shall not resume until adequate mitigative measures are implemented and appropriate corrective actions are taken and concurred with by the DOH.

SRBRFI shall not hold the DOH responsible for any damages or costs incurred due to the temporary cessation of the construction operations.

These actions shall not preclude the DOH from taking enforcement action authorized by law.

(7) Ensure that construction debris is contained and prevented from entering or reentering State waters, including the Pacific Ocean. All construction debris will be properly removed from the aquatic environment and be disposed of at an upland Federal, State, or County-approved sites. A Solid Waste Disclosure Form for Construction Sites shall be completed and returned to the DOH's Solid and Hazardous Waste Branch, Office of Solid Waste Management. No construction material or construction-related materials shall be stockpiled, stored, or placed in the aquatic environment or stored or placed in ways that will disturb the aquatic environment. The Solid Waste Disclosure Form for Construction Sites is available online at:
http://www.hawaii.gov/health/environmental/waste/sw/pdf/swdiscformnov2008.pdf.

(8) Immediately report to the CWB by e-mail at cleanwaterbranch@doh.hawaii.gov and DOH's Maui District Health Office (DHO) via fax (808) 984-8237 of any spill(s) or other contamination(s) that occurs at the project site.

(9) Ensure that all temporarily constructed structures, including the silt containment device(s), deployed or other similar structures constructed, are removed following the completion of the project construction and upon the verification that the affected marine bottoms and water column have been returned/restored to its pre-construction condition. Floating boom and/or full depth silt curtain must be in place and functional before the removal (demolition) of the four (4) temporary geotube groins. The floating boom and full depth silt curtain shall be properly installed, maintained, and operated until the pollutant producing activities are completed and the disturbed area water quality has returned to its pre-construction condition or better.

(10) Provide project status notifications. The SRBRFI shall:

(a) Notify the CWB and provide updated construction schedule by e-mail at cleanwaterbranch@doh.hawaii.gov and to the Maui DHO via fax (808) 984-8237 within seven (7) calendar days before the start of construction activities.

(b) Notify the CWB and Maui DHO in writing within 14 calendar days after the completion of the proposed sand placement and four (4) temporary geotube groins construction activities (including the restoration of the disturbed site).

All communication, including but not limited to the e-mail and fax, with the CWB shall include **File No. WQC 0000751** and the certification statement below.

(11) Ensure that:

(a) Erosion and Sediment Control Measures are in place and functional before earth moving operations begin.

(b) Temporary soil stabilization will be applied on areas that will remain unfinished for more than 30 calendar days.

(c) Permanent soil stabilization will be applied as soon as practicable after final grading.

SRBRFI shall maintain and shall also ensure that the contractor(s) will maintain, at the construction site or in the nearby field office, a record to demonstrate that Item No. 3.d(11) of the Section 401 WQC requirements have been fully complied with.

(12) Ensure that all areas impacted, either directly or indirectly, by the project construction activities are fully restored.

(13) Discontinue the work during flood conditions.

(14) Hold clearing and grubbing work to a minimum.

(15) Comply with all new State WQS or applicable requirements adopted by the DOH after the effective date of this WQC and/or after received the WQC coverage issued by the Director.

e. SRBRFI shall review and update the effectiveness and adequacy of the "**Construction Plans and BMPs**." The SRBRFI shall modify the "**Environmental Monitoring Plans**" and/or environmental protection measures upon request or when instructed by the Director.

Any change(s) or modification to "**Construction Plans and BMPs**" or the "**Environmental Monitoring Plans,**" or correction(s)/modification(s) to information already on file with the DOH shall be submitted to the CWB, for review and comment, as such change(s), correction(s) or modification(s) arise. The SRBRFI shall properly address all comment(s) and/or concern(s) to the CWB's satisfaction by writing before such change(s), correction(s) or modification(s) become effective.

f. By applying for and accepting this Section 401 WQC, the SRBRFI agrees that the DOH may conduct routine inspection of the construction site, taking color photographs, and to sample any discharges or effluent in accordance with HRS, Section 342D-8.

g. There shall be no discharge of any type of washing waters (including concrete truck or rock washing water) or treated construction activity related effluent into State waters without first obtaining from the DOH a National Pollutant Discharge Elimination System permit authorizing such type of discharge to State Waters.

SRBRFI has published a Notice of Proposed Section 401 WQC in ***The Maui News*** on January 28, 2010.

After consideration of the expressed views of all interested persons and agencies and pertinent State statutes and rules, the DOH hereby issues this Section 401 WQC to SRBRFI for the subject project.

Please include **WQC File No. WQC 0000751** and the following certification statement in all future correspondence hard copy, fax, and e-mail with the DOH for the subject project:

> **"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."**

Should you have any questions, please contact Mr. Edward Chen of the Engineering Section, CWB, at (808) 586-4309.

Sincerely,

WILFRED K. NAGAMINE, P.E., ACTING CHIEF
ENVIRONMENTAL MANAGEMENT DIVISION

EC:np

Enclosure: List of Applications and Supporting Documents

c: Dr. Wendy Wiltse, PICO, EPA, Region 9 (w/encl.) [via fax 541-2712 only]
Regulatory Branch, HED, COE (w/encl.) [via fax 438-4060 only]
CZM Program, Office of Planning, DBEDT (w/encl.) [via fax 587-2899 only]
Solid and Hazardous Waste Branch, DOH (w/encl.)
Chief, District Environmental Health Program, Maui (w/encl.) [via fax (808) 984-8237 only]
Mr. Roland Asakura, CWB, Maui District Health Office (w/encl.) [via e-mail only]

LIST OF APPLICATIONS AND SUPPORTING DOCUMENTS

September 1, 2008 Section 401 WQC Application and December 4, 2009 Revised Section 401 Application including the "Attachment Sections A1 through G2, received on December 8, 2009

01	Section 401 WQC Application	09/01/2008 & 12/04/2009
	Project Summary	
A1	Project Summary	5/8/2009
	Site Photographs	
B1	Regional Map	12/10/2007
B2	Site Photographs	12/10 & 12/21/2007
B3	Photos of Seasonal Erosion	9/1/2008
	Site Analysis	
C1	Spring Season Topographic Survey	5/30/2007
C2	Fall Season Topographic Survey	10/15/2007
C3	Aerial Photo History 1940-2005	12/10/2007
C4	UH Erosion Map	1912-2002
C5	DOH Water Quality Map	10/1987
C6	Land/Sea Use Assessment	11/5/2008
C7	Marine Environmental Description	11/23/2007
C8	Offshore Biological Assessment	4/7/2008
C9	Offshore Sand Analysis	4/10/2008
	Integrated Nourishment Project Design	
D1	Site & Nourishment Design Description	5/9/2009
D2	Proposed Site Plans, Beach Profiles and Detail	8/1/2009
D3	Estimated Equilibrium Beach Toe Site Plan	11/5/2008 & 5/6/2009
	Construction Plans and BMPs	
E1	Construction Work Plan	10/9/2009
E2	Site Specific BMPs Plan	10/9/2009
E3	Temporary Stilling Basin Design	10/9/2009
E4	Onshore Dewatering Plan	10/9/2009
E5	Silt Removal Plan (contingency)	11/5/2008
E6	Geotube Removal Plan (contingency)	8/3/2009
E7	Inland Work Plan	11/5/2008
E8	NPDES Permit Evaluation	9/27/2008
	Environmental Monitoring Plans	
F1	Water Quality Cert. Performance Monitoring/Metric	8/3/2009
F2	Benthic Habitat Performance Monitoring/Metric	8/3/2009
F3	Beach Erosion Performance Monitoring/Metric	10/25/2009
	Applicant Information	
G1	Proof of Insurance	5/9/2009
G2	Ownership Map	

CHARMAINE TAVARES
Mayor

JEFFREY S. HUNT
Director

KATHLEEN ROSS AOKI
Deputy Director

COUNTY OF MAUI
DEPARTMENT OF PLANNING

February 9, 2009

Mr. Jeffrey Lundahl
Stables Road Beach Restoration Foundation, Inc.
590A Stable Road
Paia, Hawaii 96788

Dear Mr. Lundahl:

SUBJECT: SPECIAL MANAGEMENT AREA (SMA) AND SHORELINE SETBACK ASSESSMENT FOR THE STABLE ROAD BEACH RESTORATION FOUNDATION'S EVALUATION PROJECT AT AND ALONG THE SHORELINE OF TMK'S: (2) 3-8-002:065, 071, 074, 077, 078 & 094 LOCATED AT SPRECKELSVILLE BEACH ALONG STABLE ROAD, PAIA, MAUI, HAWAI'I (SMX 2008/0453) (SM5 2009/0033) (SSA 2008/0042)

The Department of Planning (Department) has reviewed your application for the above-referenced project dated October 7, 2008. The project is being proposed by the Stable Road Beach Restoration Foundation, Inc. (SRBRF). The project, extending to as much as three years, is to evaluate the efficacy of small-scale beach nourishment of up to 10,000 cubic yards of sand placed along the shoreline for restoration purposes. Beach quality sand will be pumped from an off-shore sand reservoir using barge mounted dredge pumps. The slurry mix will be pumped through 8 to 12-inch pipe to three to five stilling basins. The basins are coincident with, and will incorporate, sand retention devices made of geotextile tubes filled with sand. The State Department of Land and Natural Resources (DLNR), Office of Conservation and Coastal Lands (OCCL) coastal erosion management plan (COEMAP) recommends sand detention devices such as these to be used in conjunction with beach nourishment of this particular nature. Staging of the work will occur along 900 feet of shoreline running along and shoreward of six residential parcels (TMKs (2)-3-8-002 parcels 65, 71, 74, 77, 78, and 94). Staging will include, but not be limited to, excavation and grading of sand by tracked equipment, closure of the beach during staging periods, and monitoring during restoration activities. A variety of mitigation measures are proposed including water quality monitoring, dual silt fences, biological monitoring with an on-site marine biologist, and beach profile monitoring. The application includes a detailed description of the methodology, monitoring plan, mitigation measures and best management practices to be implemented, a lateral beach access plan, and adaptive management mechanisms to respond to information obtained from monitoring at the site.

Given its location, the project is bifurcated between county and state jurisdictions necessitating review, oversight, monitoring for compliance, and permitting review by several government agencies. In December 2007 the SRBRF obtained approval from the Department to remove debris and dead trees along the shoreline that were creating impediments to public access

EXHIBIT "E"

and were a public nuisance. The SRBRF has also obtained a Notice of Acceptance and Environmental Determination (POH-2008-064) issued by OCCL on March 13, 2008, for the proposal The OCCL will require a Conservation District Use Permit for the action. Public input has been received through a locally-held informational public meeting, media attention and specific meetings and discussions held between stakeholder representatives and the Applicant.

In accordance with the Special Management Area (SMA) Rules for the Maui Planning Commission, Sections 12-202-12 and 12-202-14, an assessment has been made relative to the above-referenced application for a proposed action within the SMA that:

1. The proposed action consists of small-scale beach nourishment activities along the shoreline fronting the above referenced properties;

2. The proposal action qualifies as a Category II SSBN;

3. The work exceeds $125,000.00 in valuation (estimated to be $700,000.00 in total);

4. The project may include excavation seaward of the shoreline upon seasonally eroded active beach areas and therefore is not within the SMA. However, the applicant represents that should burials or Hawaiian artifacts be encountered, all work shall cease and the State Historic Preservation Division (SHPD) contacted immediately.

5. The application provides sufficient photographs of the site to assist in the determination and assessment of the proposed action;

6. The application includes sufficient mitigation mechanisms to avoid and minimize adverse impacts upon SMA coastal resources; and

7. The proposed action does not have a significant adverse environmental or ecological effect, taking into account potential cumulative effects, and conforms to the Coastal Zone Management Act, Zoning and Community Plan Policies.

Accordingly, the project is not a development and you are hereby granted a Special Management Area Exemption.

The Department notes that the proposed action occurs on conservation and shoreline areas and involves the use of State and/or County lands. The use of these public lands and these areas triggers compliance with Chapter 343 of the Hawaii Revised Statutes (HRS). However, the proposed action is addressed in the DLNR-OCCL State-wide SSBN permitting system and which obtained a programmatic environmental assessment and Finding of No Significant Impact which was published on June 8, 2000.

Finally, in accordance with the Shoreline Rules for the Maui Planning Commission, Sections 12-203-3, 12-203-6, 12-203-11, and 12-203-12, a determination has been made relative to the above-referenced project that:

A. The site includes shoreline properties that are subject to the shoreline setback rules;

B. The proposed action includes work in the shoreline area;

C. The proposed action will not have an adverse impact on a flood zone or stream way; and

D. The proposed action is a permissible activity pursuant to 12-203-12(a)(8) which allows beach nourishment / dune restoration projects approved by all applicable governmental agencies.

Accordingly, you are hereby granted a Shoreline Setback Area Approval subject to the following conditions:

1. That if any burials or Hawaiian artifacts are encountered, all work shall cease and the DLNR-SHPD contacted immediately;

2. That the Applicant shall comply with all government regulations.

3. That the Zoning And Enforcement Division (ZAED) of the Department will be notified at least 72 hours in advance of beach nourishment activities. The Department shall also be notified of any public areas closed to lateral access and the anticipated time of closure. The Department shall be informed when staging and beach restoration activities have concluded for the season or time-being given considerations of weather and other factors beyond the Applicant's control.

4. That any areas of accretion or seaward advancement of the shoreline shall not serve to benefit any of the corresponding private properties along the shoreline relative to future shoreline setback determinations.

5. That this approval shall not be construed as legitimizing, authorizing, permitting or rectifying any existing or outstanding encroachments, non-conforming structures, unauthorized improvements to structures, un-permitted structures, warnings or violations for the above-referenced properties (by TMK) along the shoreline.

6. Except as listed herein, no person shall be prohibited from access along and makai of the existing shoreline (lateral access) and that such access shall not be hindered by any physical or other impediment. Physical impediments

for public safety during nourishment activities and staging for the project are acceptable. Sand retention devices, such as geotextile tube groins, may also present physical impediments; however, wooden stairs or sand bags will be used to the extent possible, to provide for continuous lateral access. Silt fences and other best management practices may acceptably impede lateral access given their purpose.

7. That the measures and mechanisms represented by the applicant in the application shall be employed in order to avoid, mitigate and/or minimize adverse impacts to coastal, marine, beach and water quality resources. This includes full implementation of the various monitoring plans including those addressing water quality, biological and benthic resources, beach profiles, and public lateral access.

8. That the adaptive management mechanisms described in the monitoring plans shall be implemented to the Department's satisfaction.

9. That a compliance report shall be submitted to the Department.

10. That an evaluation report shall be provided to the Department every six months, or seasonally as appropriate, noting the project's progress. Said report should include photographs, data, illustrations and be in written and electronic format. At the completion of the project, but not less than three years from its initiation, the Applicant shall provide the Department with a final report including the items mentioned above and specifically addressing the costs, public benefits, marine, water and benthic quality and efficacy of the beach restoration effort.

11. That the Department, in concurrence with the DLNR-OCCL and the Sea Grant Extension Agent, may require adjustments to relocation of, or removal of any sand retention devices used in the project.

12. That the Department, in concurrence with the DLNR-OCCL and the Sea Grant Extension Agent, may require the Applicant to remove such sand as necessary should a public health and safety concern be discovered with the sand placed on, along and/or seaward of the shoreline. With approval from the Department, the applicant may use low-silt, beach quality, Maui inland sands as a secondary source should replacement of contaminated sands be necessary.

In summary, the Department has assessed the proposed action and found it to be consistent with the objectives, policies and SMA guidelines set forth in HRS 205A, as well as zoning and community plan requirements, and applicable rules of the Maui Planning Commission. The Department grants you an SMA Exemption and Shoreline Setback Approval subject to twelve (12) conditions.

Thank you for your cooperation. If additional clarification is required, please contact Coastal Resources Planner Thorne Abbott at thorne.abbott@mauicounty.gov or 270-7520.

Sincerely,

JEFFREY S. HUNT, AICP
Planning Director

xc: Clayton I. Yoshida, AICP, Planning Program Administrator
Aaron H. Shinmoto, PE, Planning Program Administrator (2)
Thorne E. Abbott, Coastal Resources Planner
DLNR-OCCL, Honolulu
DLNR-Land Agent, Maui
Sea Grant Extension Agent
Mr. Robb Cole, Hawaii Land Use Group LLC
Project File
General File

JSH:TEA:bv
K:\WP_DOCS\PLANNING\SM5\2009\0033_SpreksSSBN-catII\SSBN2.wpd

AGREEMENT

THIS AGREEMENT (this "Agreement") made, executed, and delivered this 12th day of MAY, 2009, by and between STABLE ROAD BEACH RESTORATION FOUNDATION, INC., whose mailing address is 590 Stable Road, Paia, Hawaii 96779-9755, herein called the "Applicant" and the DEPARTMENT OF LAND AND NATURAL RESOURCES OF THE STATE OF HAWAII, whose mailing address is P.O. Box 621, Honolulu, Hawaii 96809-0621, hereinafter called the "Department".

WITNESSETH

WHEREAS, the Applicant has members who are the current owners of certain oceanfront lands situate at 592, 590/590A, 584C, 584A, 584B and 584D Stable Road, Paia, on the Island of Maui, being TMK Nos. (2) 3-8-002: 065, 094, 071, 077, 074 and 078 (the "Property");

WHEREAS, the Applicant wishes to install four temporary, sand filled geotextile groins (the "Groins") on lands partially seaward of the Property as permitted by the Department per SSBN MA-08-01 and upon the Department's Chairperson authorizing this permit;

WHEREAS, the Applicant has agreed to remove the Groins after three years and before four years of the Groins' installation date completion, which is to be agreed to in writing by the parties after the completion;

WHEREAS, the Applicant has agreed to establish an escrow account (the "Escrow"), the terms of which are subject to review and acceptance by the Department, and equal to one hundred and fifty percent (150%) of the cost of removing the Groins, as a guarantee to the full and faithful performance of the removal work required by this Agreement.

EXHIBIT "G"

NOW, THEREFORE, IT IS HEREBY AGREED, by and between Applicant and Department, that:

1. Applicant shall complete the removal of the Groins as specified in this Agreement unless the Department subsequently permits the Groins to remain.

2. The removal of the Groins, described in Item 1 above, shall be completed by no later than four (4) years after the Groins' installation completion date unless the Department issues an approval for the Groins to remain for a longer period.

3. In the event Applicant fails to complete all removal work within the time specified herein above or such extensions as may be mutually agreed upon in writing, or fails to timely complete or abandons the removal work, or this Agreement is terminated by the Department for Applicant's noncompliance with any provision contained in this Agreement, the Department may remove the Groins through the execution on the Escrow. The Applicant shall be solely liable for any cost and expense associated with the removal of the Groins to the satisfaction of the Department in excess of the amount or the scope of work guaranteed by the Escrow.

4. The Department shall authorize in writing to the Escrow company any and all unused funds in the Escrow shall revert to the Applicant, within thirty (30) days after the completion of the removal of the Groins as specified in this Agreement.

5. Applicant's obligations to complete the removal work as specified in this Agreement shall be secured by payment into the Escrow in the amount of forty eight thousand, two hundred and sixty three DOLLARS (**$48,263.00**) tendered by Applicant, dated April 14, 2009, which payment is established by the attached Exhibit "A"; this amount equal to one hundred fifty percent (150%) of the value determined by the cost estimate attached as Exhibit "B", and conditioned upon the faithful performance of any and all removal work required to be done by the Applicant in accordance with the provisions of this Agreement. The Escrow names the Department as an Obligee, having the power to execute on the Escrow at its sole discretion, in accordance with this Agreement and the Supplemental Escrow instructions attached as Exhibit "C".

IN WITNESS WHEREOF, the parties have caused these presents to be executed the date and year first written.

STABLE ROAD BEACH RESTORATION FOUNDATION, INC.

By_____
Jeffrey A. Lundahl, President

,

DEPARTMENT OF LAND AND NATURAL RESOURCES

By_____
Laura H. Thielen, Chairperson

EXHIBIT A

Title Guaranty Escrow Services, Inc.

MAIN OFFICE, 235 QUEEN ST, HONOLULU, HI 96813
Tel:(808) 521-0211 Fax:(808) 521-0280 Email:main@tghawaii.com

Receipt		No. 389173

Payor: STABLE ROAD BEACH RESTORATION	Escrow No.: A9-101-2551 Check Date: 4/14/2009 Check No.: 1046 Drawn on: BOH Date Rcvd: 4/15/2009

Code	Description	Amount
39	DEP FOR ESCROW FEE	$520.80
Total		$520.80

This is your receipt for funds deposited with Title Guaranty Escrow Services Inc.	Bank: 201 - FIRST HAWAIIAN BANK Branch: 101 - FHB-HEAD OFFICE By: YALI KUANG/YKX

Comments: TO BE DEPOSIT BY TG KAHULUI; RECEIPT 2 OF 2

AMERICAN MARINE CORPORATION

EXHIBIT B

A member of the American Marine Services Group

March 6 2009

Mr. Ian Horswill
Vice President
Stable Road Beach Restoration Foundation, Inc.
590 Stable Road
Paia, HI. 96779

Subject: Stable Road Beach Nourishment Project

Mr. Horswill:

In regards to the removal of the temporary groins if required, AMC feels that in our professional opinion, this can be accomplished both timely and economically. The same crew that had installed the bags would simply slice the bags longitudinally and dump out the sand with the help of an excavator. The bags would be placed into dumpsters for proper disposal. After the bags have all been emptied for each groin, the sand would be smoothed to match the beach as close as possible.

We estimate that the removal would take less than three days and an estimated cost of $32,175.00.

If more information is required, please feel free to contact me directly.

Best regards,

American Marine Corp.

David W. Griffith
Area Manager

Honolulu	65 N. Nimitz Hwy., Pier 14	Honolulu HI 96817-5021	Phone (808) 545-5190	Fax (808) 538-1703
California	1500 Barracuda St., B-270	Terminal Island, CA 90731-7357	Phone (310) 547-0919	Fax (310) 547-0031
Alaska	6000 "A" Street	Anchorage, AK 99518-1815	Phone (907) 562-5420	Fax (907) 562-5426

EXHIBIT C

SUPPLEMENTAL ESCROW INSTRUCTIONS

Title Guaranty Escrow Services, Inc.
Escrow number: A91012551

The above referenced escrow has been opened to hold funds pursuant to an Agreement (the "Agreement"), a copy of which is attached hereto, between the State of Hawaii Department of Land and Natural Resources (the "Department") and the Stable Road Beach Restoration Foundation, Inc. (the "Foundation.

This document contains escrow instructions which are supplemental to Title Guaranty Escrow Services, Inc. Standard General Provisions, a copy of which is attached hereto. The following Supplemental Escrow Instructions have been agreed to by both parties:

1. Pursuit to the Agreement, the Foundation is to deposit the sum of forty eight thousand , two hundred and sixty three dollars ($48,263.00), (the "Funds") in an escrow account (the Escrow) at Title Guaranty Escrow Services, Inc.

2. The funds are to be placed in an interest bearing account at a federally insured institution with interest accruing to the Foundation and to be paid to the Foundation at the close of escrow.

3. The Funds are to be held jointly, with both the Department and the Foundation named as obligees.

4. Upon a written request from the Foundation, or no later than thirty (30) days after the removal of the Groins as specified in the Agreement, which ever event occurs first, the Department shall make a written determination as to whether the removal of the Groins has been completed per the Agreement.

5. If any or all of the Groins have not been removed by the Foundation within the time specified in the Agreement, the Department may remove or complete removal of the Groins using Funds from the Escrow to pay the actual cost of the removal of the Groins.

6. In the event the Department uses the Funds from the Escrow to pay for the removal of the Groins, any and all remaining Funds shall be paid to the Foundation within thirty (30) days after the removal of Groins by the Department upon demand by the Foundation in writing.

7. In the event of an inconsistency, these Supplemental Escrow Instructions shall control over the Title Guaranty Escrow Services, Inc. Standard General Provisions attached hereto.

8. In the event the Foundation decides not to install the Groins, and it notifies the Department and Title Guaranty Escrow Services, Inc. in writing of such, the Funds will be returned to the Foundation within thirty (30) days of the written notification.

Stable Road Beach Restoration Foundation, Inc.
by_____
Jeffrey A. Lundahl, President

State of Hawaii
Department of Land and Natural Resources
by_____
Laura H Thielen, Chairperson

STANDARD GENERAL PROVISIONS

In consideration of Escrow acting as escrow holder hereunder, it is agreed that Escrow is relieved from all liability for acting in accordance with the terms hereof, notwithstanding a notice to the contrary by a third person. Escrow shall not be responsible for the validity or sufficiency of any documents received by it and shall be entitled for all purposes to assume that the same have been signed by the persons whose signatures purport to be thereon and that any written certification of instruments are true and accurate. If any dispute or difference shall arise or if any conflicting demand shall be made upon Escrow, Escrow shall not be required to determine the same or take any action in the premises, but Escrow may file a suit in interpleader in any court having jurisdiction in the matter, for the purpose of having the respective rights of the parties adjudicated and may deposit with the court any or all monies held hereunder. Upon institution of an interpleader suit or other action and the depositing of such money with the court, Escrow shall be fully released and discharged from all further obligations hereunder with respect to the monies so deposited. Stable Road Beach Restoration Foundation, Inc. agrees to pay Escrow on demand and to indemnify and hold Escrow harmless from and against all costs, damages, judgments, attorneys' fees, expenses, obligations and liabilities of every kind and nature reasonably suffered or incurred in connection with or arising out of this escrow, including, but not limited to, all costs and expenses incurred in connection with the interpretation of this Agreement or with respect to any interpleader or other proceeding, and excluding all of the foregoing which is the result of any act or omission by Escrow or its agents which is not generally accepted in the Honolulu business community as a reasonable business practice. Upon payment thereof, Stable Road Beach Restoration Foundation, Inc. will be subrogated to Escrow's right to judgment for such costs, damages, etc., against third persons.